

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GABRIEL ROBERT GONZALEZ,	:	CIVIL ACTION
Petitioner,	:	
	:	
v.	:	
	:	
RANDALL BRITTON, et al.,	:	NO. 09-2029
Respondents.	:	

**EXPLANATION AND ORDER**

This Court previously entered an order (Doc. No. 3) directing the Clerk of Quarter Sessions of Philadelphia County to file with the Clerk of this Court the state court record, including notes of testimony at trial and suppression hearings, in the matter of Commonwealth v. Gabriel Gonzalez, Court of Common Pleas of Philadelphia County, Term 2000 March, Criminal Case No. CP-0003-0352 1/1. The Clerk of Quarter Sessions promptly complied, providing her entire file. (See Cover Letter from Marc E. Gaillard, Second Deputy, to Michael Kunz, Chief Clerk.) That file included, however, only two volumes of testimony, from proceedings held in May 2007 and concerning Petitioner's PCRA action. The Quarter Sessions file that we received does not include the February 2001 notes of testimony from trial or from a significant suppression hearing.

In their response to the petition, Respondents have referred extensively to the notes of testimony from the suppression hearing and trial proceedings. This is particularly apparent in their response to Petitioner's claim that his conviction was obtained by use of a coerced confession, as to which Respondents assert that the trial court's findings regarding the voluntariness of the confession were well-supported by the evidence presented at the suppression hearing. (See, e.g., Doc. 9 at 18-22.) Inasmuch as Respondents cite to and rely upon the support provided in the notes of testimony for the state trial court's credibility determinations and findings of fact, we find it

appropriate for us to ensure that the record before the habeas court includes the cited materials. given the absence of these notes from the Quarter Sessions file, we must ask Respondents to provide us with a copy of these materials.

AND NOW, this 2nd day of April, 2010, in light of the foregoing and pursuant to Rule 5(c) of the Rules Governing Section 2254 Cases, **IT IS HEREBY ORDERED THAT** the District Attorney of Philadelphia County shall submit to the Court, on or before April 23, 2010, copies of: ALL notes of testimony from the suppression hearing and trial in this matter.

BY THE COURT:

/s/ David R. Strawbridge  
DAVID R. STRAWBRIDGE  
UNITED STATES MAGISTRATE JUDGE